From: Jim Landen <jlanden@snbomaha.com> on 03/24/2004 11:01:06 AM
Subject: Regulation BB - Community Reinvestment Act

March 24, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. R-1181

Dear Ms. Johnson:

I am the President of Security National Bank, a $427 million bank located in Omaha, Nebraska. As a community banker, I strongly endorse the federal bank regulators' proposal to increase the asset size of banks eligible for the small-bank streamlined Community Reinvestment Act (CRA) examination from $250 million to $500 million and elimination of the holding company size limit (currently $1 billion). This proposal will greatly reduce regulatory burden.

In raising the threshold for large-bank CRA, I strongly encourage you to consider using a pre-existing benchmark for "Community Financial Institution" if the large-bank threshold is only raised to a level approximating $500 million. The Federal Housing Finance Board defines a community financial institution as having average total assets of $548 million for 2004. The Federal Housing Finance Board adjusts the asset cap for community financial institutions annually. An annually adjusted cap would be beneficial in keeping the regulation from becoming outdated. However, adjusting the large-bank CRA limit to the $2 billion level is viewed as more appropriate and is discussed below.

The small bank CRA examination process was an excellent innovation. As a community banker, I applaud the agencies for recognizing that it is time to expand this critical burden reduction benefit to larger community banks. At this critical time for the economy, this will allow more community banks to focus on what they do best-fueling America's local economies. When a bank must comply with the requirements of the large bank CRA evaluation process, the costs and burdens increase dramatically. And the resources devoted to CRA compliance are resources not available for meeting the credit demands of the community. For example, in my bank the cost of complying with the large-bank CRA on an ongoing basis is estimated to be $10,000 annually. The $10,000 does not take into account the additional time required to implement procedures and training for the first year our bank was subject to the large bank CRA test. It would be more beneficial to our community if a portion of the resources our bank dedicates to complying with the large-bank CRA standards were instead devoted towards promoting the FDIC's Money Smart program.

Adjusting the asset size limit also more accurately reflects significant changes and consolidation within the banking industry in the last ten years. To be fair, banks should be evaluated against their peers, not banks hundreds of time the size. The proposed change recognizes that it's not right to assess the CRA performance of a $500 million bank or a $1 billion bank with the same exam procedures used for a $500 billion bank. Large banks now stretch from coast-to-coast with assets in the hundreds of billions of dollars. It is not fair to rate a community bank using the same CRA examination. And, while the proposed increase is a good first step, the size of banks eligible for the small-bank streamlined CRA examination should be increased to $2 billion, or at a minimum, $1 billion.

Ironically, community activists seem oblivious to the costs and burdens. And yet, they object to bank mergers that remove the local bank from the community. This is contradictory. If community groups want to keep the local banks in the community where they have better access to decision-makers, they must recognize that regulatory burdens are strangling smaller institutions and forcing them to consider selling to larger institutions that can better manage the burdens.

The following comments are in response to the changes proposed in Section 25.42. Increasing the number of categories for income groupings from the current 4 categories to 13 for the CRA Disclosure Statement is not viewed as an improvement over the current method. Presently, loans are grouped within the following income categories on the CRA Statement: low income, moderate income, middle income, and upper income. These income breakdowns are known in the industry to represent less than 50% of median income for low income, 50% to less than 80% of median income for moderate income, 80% to less than 120% of median income for middle income, and more than 120% of median income for upper income. The existing income categories known as low, moderate, middle, and upper on the CRA Disclosure Statement are meaningful throughout the industry for analysis purposes. As proposed in 25.42 (i), loans would be grouped according to categories that are much narrower - categories of only 10 percentage. For example, the new categories of median income would be: less than 10% percent, 10% to less than 20%, 20% to less than 30%, 30% to less than 40%, 40% to less than 50%, 50% to less than 60%, 60% to less than 70%, 70% to less than 80%, 80% to less than 90%, 90% to less than 100%, 100% to less than 110%, 110% to less than 120%, and more than 120%. The benefit of having more income categories on the CRA Disclosure Statement is not apparent. Increasing the number of income categories will increase regulatory burden because analyzing the results of the CRA disclosure statements will be more time consuming. The result of the analysis under the proposed income categories will not be meaningfully different than if current categories are retained.

The proposal addresses predatory lending considerations. While I agree that evidence of predatory lending should negatively impact a bank's CRA rating, practices already addressed within other regulations should not be duplicated by the CRA regulation. In relation to predatory lending the proposal specifically mentions violations of Equal Credit Opportunity Act, Fair Housing Act, Home Ownership and Equity Protection Act, Federal Trade Commission Act, Real Estate Settlement Procedures Act, and the Truth in Lending Act. Issues with those regulations should be dealt with directly via existing consumer protection laws and should not be specifically mentioned in the CRA regulation.

Increasing the size of banks eligible for the small-bank streamlined CRA examination does not relieve banks from CRA responsibilities. Since the survival of many community banks is closely intertwined with the success and viability of their communities, the increase will merely eliminate some of the most burdensome requirements.

In summary, I believe that increasing the asset-size of banks eligible for the small-bank streamlined CRA examination process is an important first step to reducing regulatory burden. I also support eliminating the separate holding company qualification for the streamlined examination, since it places small community banks that are part of a larger holding company at a disadvantage to their peers. The benefit of increasing the number of income groupings on the CRA Disclosure Statement is not apparent; therefore, I do not support that change. Also, violations of pre-existing laws should be addressed through monitoring compliance with those regulations versus addressing those regulations through CRA. While community banks still must comply with the general requirements of CRA, this change will eliminate some of the most problematic and burdensome elements of the current CRA regulation from community banks that are drowning in regulatory red-tape. I also urge the agencies to seriously consider raising the size of banks eligible for the streamlined examination to $2 billion or, at least, $1 billion in assets to better reflect the current demographics of the banking industry.

Sincerely,

James E. Landen
President